

COMMENTS

The enclosed is responsive to the Examiner's Final Office Action mailed on August 25, 2003. At the time the Examiner mailed the Office Action claims 1-28 were pending. By way of the present response the Applicant has: 1) amended claims 1, 5, 9, 13, 17 and 23; 2) neither canceled nor added any claims. As such claims 1 through 28 remain pending. The Applicant respectfully requests reconsideration of the present application and the allowance of claims 1 through 28. No new matter has been added.

The Examiner has rejected each of independent claims 1, 5, 9, 13, 17 and 23 as being obvious in light of the combination of US Patent No. 6,292,478 (hereinafter, "Farris") and US Patent No. 6,512,768 (hereinafter, "Thomas"). In reaching the conclusion of non-obvious the Examiner has reasoned that

The very nature of data and digital communications is to NOT have a one-to-one relationship between a trunk, line, connection, and a user like a POTS system for example. Therefore it is at the very least obvious that other connections as well are routed using the IP address and label depending on where or how a call is to be routed. Having NON-dedicated lines for communications has been the desire for a long time to increase system resource efficiency/eliminate wasteful resource usage and even to increase system efficiency.

The Examiner's comments above suggest that the Examiner has either failed to comprehend the matter being claimed by the Applicant and/or has failed to comply with the procedural guidelines set forth for articulating a rejection under 35 USC 103(a).

With respect to the former, it appears to the Applicant that the Examiner may have failed to recognize that the claimed request is tunneled by being transported with a label used by other connections. In order to further clarify the

subject matter being claimed the Applicant has amended claims 1, 5, 9, 13, 17 and 23.

If the Examiner properly comprehended the claimed subject matter then the Examiner has, at a minimum, failed to provide a proper rejection. "To establish a *prima facie* case of obviousness ... the prior art reference (or references when combined) must teach or suggest all the claim limitations."

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The Examiner has used the combination of Farris and Thomas to "cover" the claimed aspect of tunneling a request by using a label used by other connections. Yet, no such matter can be found anywhere in Farris or Thomas, either expressly or impliedly. As such, the Examiner's theory of rejection is improper because the Examiner has failed to find a basis in the prior art for rejecting the Applicant's claims. The Applicant respectfully requests the Examiner to particular identify where in the prior art the technique of tunneling a request through a network by using a label used by other connections is found.

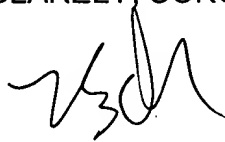
The Applicant respectfully submits that the present application is in condition for allowance. If the Examiner believes a telephone conference would expedite or assist in the allowance of the present application, the Examiner is invited to call Robert O'Rourke at (408) 720-8300.

If there are any additional charges, please charge them to our Deposit Account Number 02-2666.

Respectfully submitted,

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